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August 17, 2016

Zachary Wasserman, Chair
San Francisco Bay Conservation and Development Commission
455 Golden Gate Avenue, Suite 10600
San Francisco, CA 94102
zwasserman@wendel.com

RE: Public Hearing on State and Federal Contractors Water Agency and Westervelt Ecological Services, LLC's Application for BCDC Permit

Dear Chair Wasserman:

Thank you for the opportunity to provide to you this letter of support for the Tule Red Restoration Project being pursued by the State and Federal Contractors Water Agency (SFCWA) and Westervelt Ecological Services. The Delta Stewardship Council is one of the Principal Agencies which oversee implementation of the Suisun Marsh Habitat Management, Preservation and Restoration Plan (SMP). Council staff has discussed the Tule Red project with representatives of the other SMP Principal Agencies, and they also support it, for the reasons discussed below.

The SMP is a 30-year comprehensive plan for the Suisun Marsh that went into effect in 2014. It is a product of over a decade of work by multiple State and Federal agencies and the Suisun Resource Conservation District (SRCD) to develop a regional strategy for the Suisun Marsh that helps facilitate ongoing maintenance of levees to protect the region's longstanding waterfowl hunting clubs and also facilitate the restoration of tidal wetlands to benefit a suite of native terrestrial and aquatic species.

The SMP has overarching objectives related to restoring and protecting habitats and ecological processes, maintaining recreational opportunities such as waterfowl hunting, improving levee system integrity, and protecting and improving water quality for beneficial uses.

"Coequal goals" means the two goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem. The coequal goals shall be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place."

– CA Water Code §85054

Some of the specific goals of the SMP include restoration of 5,000-7,000 acres of tidal marsh to contribute to the recovery of listed aquatic and terrestrial species and protection and enhancement of 40,000 to 50,000 acres of managed wetlands to benefit waterfowl. The Principal Agencies rely on partners to help make progress towards the SMP objectives, like the goal of restoring thousands of acres of tidal wetlands. The foundation provided by the SMP facilitates this partnership, in part by saving these partners substantial time and effort, as they are able to tier off the SMP environmental documentation. For example, SFCWA was able to fulfill its California Environmental Quality Act (CEQA) requirements for the Tule Red Restoration Project through a CEQA addendum to the SMP Environmental Impact Report/Environmental Impact Statement (EIR/EIS), as well as use the existing programmatic biological opinions (BiOps) for the SMP.

Principals Support for Tule Red

We foremost want to express our strong support for the Tule Red Restoration Project. This project will help contribute to the SMP objective of 5,000-7,000 acres of tidal marsh restoration by restoring 420 acres of existing managed brackish wetlands to tidal wetland habitat, specifically to benefit federally and state-listed delta smelt, longfin smelt, and salmonids. Additionally, the project is designed to have minimal effects on neighboring landowners managing wetlands for waterfowl, and thus supports SMP objectives related to maintaining the waterfowl hunting heritage of the region.

During the development of the SMP, conceptual models were developed which identify the current scientific understanding of the Suisun Marsh and identify uncertainties related to Marsh management and tidal wetland restoration. Many of these uncertainties can only be addressed by implementing restoration projects and learning from the results. The Tule Red Restoration Project has a robust adaptive management plan that was developed based on the latest guidance from the Interagency Ecological Program's Tidal Wetlands Monitoring Project Work Team. This Project Work Team - composed of a consortium of agency scientists, university researchers, and consultants - developed a standardized monitoring framework based around addressing key hypotheses and uncertainties pertaining to restoration of tidal wetlands in the Delta and Suisun Marsh. The long-term monitoring strategy identified in the Tule Red Restoration Project's Adaptive Management Plan will also help address the many uncertainties identified by the SMP and help contribute towards effective adaptive management of the SMP as a whole over its 30-year implementation period.

The Tule Red Restoration Project would also act as partial fulfillment of a Reasonable and Prudent Alternative (RPA) of the 2008 United States Fish and Wildlife Service (USFWS) delta smelt BiOp for ongoing operations of the State Water Project and the Central Valley Project. That RPA called for the creation or restoration of 8,000 acres of intertidal and associated subtidal habitat in the Delta and Suisun Marsh with the intent to improve foodweb productivity for delta smelt.

The project could also be used in partial fulfillment of the 2009 National Marine Fisheries Service (NMFS) BiOp for listed salmonids and green sturgeon which includes an RPA calling for restoration of 17,000-20,000 acres of floodplain rearing habitat for listed salmonids; the NMFS BiOp allows for acreage of tidal habitat restored pursuant to the delta smelt BiOp to also partially satisfy their restoration acreage target if it provides rearing habitat for listed salmonids. Due to numerous challenges facing implementation of restoration projects in the Delta and Suisun Marsh, to date no restoration projects have been constructed that made progress towards either RPA acreage targets. If the Tule Red Restoration Project completes its permitting process and goes to construction this fall, it would also represent the first tidal marsh restoration project constructed in Suisun Marsh since the SMP went into effect.

Tule Red Review

As you may know, the Tule Red Restoration Project has undergone multiple review processes, a few of which we want to highlight. For example in 2015 the project underwent review by the Adaptive Management Advisory Team (AMAT), which was established by the SMP Principal Agencies to provide technical support to the Principals and give feedback to proponents implementing projects under the SMP regarding their project designs and adaptive management plans. The AMAT includes agencies such as the SRCDC, United States Bureau of Reclamation, United State Fish and Wildlife Service, California Department of Fish and Wildlife, Department of Water Resources, and the Delta Stewardship Council (DSC). BCDC staff are also regular participants on the AMAT and were involved in the AMAT review of the Tule Red Restoration Project.

Earlier this year the Tule Red Restoration Project also cleared the DSC's covered action process after filing a Delta Plan certification of consistency. In the certification, SFCWA addressed a number of issues including documentation of the use of best available science, adaptive management, siting of restored habitat at appropriate elevation, and minimizing impacts to local land use and existing uses. The certification of consistency is a self-certification process, however all certifications for covered actions are subject to a 30-day appeal period during which any member of the public, including Delta Stewardship Council members, can appeal the action if they consider it inconsistent with the DSC's Delta Plan. The project received no appeals during this period.

Zachary Wasserman, Chair
San Francisco Bay Conservation and Development Commission
August 16, 2016
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Final Remarks

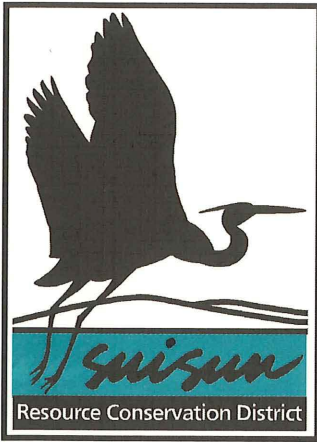
In conclusion, we wish to express support for the Tule Red Restoration Project. We hope the above comments will be informative to the Commission as it considers whether to approve a marsh development permit for the project.

Sincerely,



Cassandra Enos-Nobriga
Deputy Executive Officer
Delta Stewardship Council

cc: Ms. Jaime Michaels, BCDC
Ms. Pascale Soumoy, BCDC
Mr. Byron Buck, SFCWA
Mr. Robert Capriola, Westervelt Ecological Services
SMP Principal Agencies



August 15th, 2016

Ms. Jamie Michaels
Chief of Permits, BCDC
455 Golden Gate Ave., Suite 10600
San Francisco, CA 94102

Subject: Tule Red Tidal Restoration Project - BCDC Permit No.
2016.002.00md

Dear Ms. Michaels,

The purpose of this letter is to express the Suisun Resource Conservation District's (SRCD) support for the proposed Tule Red Tidal Restoration Project and concern over BCDC's staff use of the San Francisco Bay Plan's Policy of "maximum feasible public access" as the principal standard to be applied to projects with a public access component in the Suisun Marsh.

SRCD has been an active participant in the Tule Red Tidal Restoration Project development and design as a technical advisor and as a Suisun Marsh Plan Principal. The Tule Red Project has evolved over time, with the addition of scientific analysis, professional insight, compliance with regulatory requirements, and the identification of physical, environmental, and land use constraints. The SRCD believes the final Project design is consistent with the BCDC Suisun Marsh Protection Plan (SMPP), the SRCD Local Protection Program Policies, and will contribute to the Goals and Objectives of the 2013 Suisun Marsh Habitat Management, Preservation and Restoration Plan.

SRCD also supports the Project proponents proposal to increase appropriate public access at existing locations in the Marsh, to provide Project interpretive signage, fund a comprehensive Suisun Marsh public access study, and provide funding to a future appropriate public access improvement, as part of the Project. SRCD also supports the conclusion that a public access trail at the Tule Red Project site is inappropriate. A public access trail at the site would be inconsistent with the BCDC Suisun Marsh Protection Plan (SMPP) Finding and Policies for Recreation and Access, would have significant conflicts with neighboring private landowners, and be in direct conflict with the ecological objectives of tidal wetland restoration and contributions toward recovery of endangered species at the site.

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Additionally, SRCD has grave concern with BCDC staff's conclusion that the San Francisco Bay Plan's Policy of "maximum feasible public access" is the standard that should be applied to projects with a public access component in the Suisun Marsh. This is an inaccurate conclusion and is not supported by BCDC's SMPP or the Suisun Marsh Preservation Act enabling Legislation, and sets unacceptable precedent and expectations for future projects in the Suisun Marsh.

SRCD supports appropriate public access in the Suisun Marsh, but only if it complies with BCDC Suisun Marsh Protection Plan Finding and Policies for Recreation and Access and is compatible with existing public and private landowners interests. The SMPP Policies are specific to Suisun Marsh and were developed to protect the unique land use and historical recreation specific to the Suisun Marsh (Public Resource Code §§ 29000 – 29612), including interspersed mosaic of private and public ownership and landowner's primary stewardship objectives to conserve and protect the Suisun Marsh wetland and wildlife resources.

Page 45 of the SMPP, **Part III Carrying Out The Protection Plan - Relation of the San Francisco Bay Plan and the Suisun Marsh Protection Plan** states, "The Suisun Marsh Protection Plan is intended to be a more specific application of the general, regional policies of the San Francisco Bay Plan and to supplement those policies where appropriate because of the unique characteristics of the Suisun Marsh. Therefore the policies of both the Bay Plan and the Suisun Marsh Protection Plan apply in the area covered by the latter, except where the two may conflict. In that case, the more specific policies of the Suisun Marsh Protection Plan control."

Furthermore, Division 9 of the Public Resource Code §§ 29008 states, "The Legislature further finds and declares that the *Suisun Marsh Protection Plan is a more specific application of the general, regional policies of the San Francisco Bay Plan* prepared and administered by the San Francisco Bay Conservation and Development Commission pursuant to Title 7.2 (commencing with Section 66600) of the Government Code, *and is an appropriate supplement to those policies because of the unique characteristics of the Suisun Marsh.* Therefore, the Legislature declares that the appropriate policies of both the San Francisco Bay Plan and the Suisun Marsh Protection Plan shall apply within any area that is within the commission's jurisdiction, as defined in Section 66610 of the Government Code, and that is also within the marsh, as defined in Section 29101 of this code, *except where the San Francisco Bay Plan and the Suisun Marsh Protection Plan may conflict. If a conflict occurs in a specific instance, the policies of the Suisun Marsh Protection Plan shall control.*"

Additionally, the BCDC staff report omits many important elements of the BCDC SMPP Policies that should be considered, including Recreation and Access for all Suisun Marsh Projects:

SMPP - Recreation and Access

The vast open expanse of the Suisun Marsh is the location of many recreational activities. The Marsh is well known for waterfowl hunting in California. In addition, several other forms of recreation, including fishing, upland game hunting, and water sports, are also popular in the Marsh. Nevertheless, there are opportunities for a greater diversity and amount of public recreation in the Marsh.

The recreational values of the Marsh, particularly for duck hunting, have been a significant factor in its preservation. Private duck clubs and public agencies, such as the Department of Fish and Game, have made considerable contributions to the improvement of the Marsh habitats for waterfowl as well as other wildlife.

Policies

1. *Continued recreational use of privately-owned managed wetlands should be encouraged.* Additional land should be acquired within the Suisun Marsh to provide for increased public recreational use and additional refuge areas for waterfowl during the hunting season. Acquisition priority should be given to those lands not now operated as managed wetlands.
2. Land should also be purchased for public recreation and access to the Marsh for such uses as fishing boat launching and nature study. *These areas should be located on the outer portions of the Marsh near the population centers and easily accessible from existing roads. Improvements for public use should be consistent with protection of wildlife resources.*
3. Public agencies acquiring land in the Marsh for public access and recreational use should provide for a balance of recreational needs by expanding and diversifying opportunities for activities such as bird watching, picnicking, hiking, and nature study.
4. Agencies administering land acquired for public access and recreational use should be responsible for maintaining the areas and controlling their use. Signing on roads leading into the Marsh and maintained litter receptacles at major public use areas should be provided by the appropriate local or State agency to prevent littering and vandalism to public and private property.
5. *Recreational activities that could result in adverse impacts to the environment or aesthetic qualities of the Suisun Marsh should not be permitted. Levels of use should also be monitored to insure that their intensity is compatible with other recreation activities and with protection of the Marsh environment.* For example, boat speeds and excessive noise should be controlled and activities such as water skiing and naval training exercises should be kept at an acceptable level.

In conclusion, the SRCD supports the proposed Tule Red Tidal Restoration Project. The SRCD also looks forward to working with the BCDC Commission and staff to address important issues associated with BCDC SMPP policies and public access in the Suisun Marsh. Ensuring the protection of Suisun Marsh wetland and wildlife resources and the private landowner interests is a paramount priority for SRCD.

Please contact me at 707-425-9302 if you have any questions about the content of this letter.

Sincerely,



Steven Chappell,
Executive Director

Cc: SRCD Board of Directors

Mr. Scott Wilson, DFW

State and Federal Contractors Water Agency

Westervelt Ecological Services

Ms. Pascal Soumoy, BCDC

Mr. Brad McCrea, BCDC

Suisun Marsh Plan, Principals



August 9, 2016

Chair Wasserman and Members of the Commission
455 Golden Gate Ave., Suite 10600
San Francisco, CA 94102



SAN FRANCISCO BAY CONSERVATION
& DEVELOPMENT COMMISSION

Chair Wasserman and Members of the Commission:

This letter is in support of the permit for the Tule Red Tidal Wetland Restoration Project (Permit Application No. 2016.002.00). This Project is a top priority of the California EcoRestore program. EcoRestore was created by the Governor last year to accelerate the implementation of habitat restoration projects in the Sacramento-San Joaquin Delta and the Suisun Marsh and to help implement the California Water Action Plan.

The 420 acre Tule Red project will be the first to begin meeting the requirement of constructing 8,000 acres of tidal wetland habitat to benefit Delta smelt. This is a requirement of the U.S. Fish and Wildlife Service Delta Smelt Biological Opinion for the current operations of the State Water Project and the Central Valley Project. Tule Red is also part of the State Delta Smelt Resiliency Strategy to implement near-term actions to benefit the species.

This type of project is recommended in the recently updated Suisun Marsh Habitat Management, Preservation and Restoration Plan, which included the involvement of BCDC and many other agencies.

I appreciate the cooperation of BCDC staff in expediting this permit application so that we may start construction this year. It is critical that we make progress on restoration projects such as Tule Red. There will be other important tidal wetlands restoration projects in the Suisun Marsh subject to BCDC permits, and the progress we have made on this permit will help ensure that these future projects also can meet BCDC regulatory requirements and provide valuable environmental benefits.

If you have any questions, please contact me at (916) 654-4925 or david.okita@resources.ca.gov.

Sincerely,

David Okita, Director for Delta Restoration

1416 Ninth Street, Suite 1311, Sacramento, CA 95814 Ph. 916.653.5656 Fax 916.653.8102 <http://resources.ca.gov>

